

ORDINANCE NO. 1758

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI  
AMENDING TITLE 15, "BUILDINGS AND CONSTRUCTION," OF  
THE LODI MUNICIPAL CODE BY ADDING CHAPTER 15.66  
RELATING TO COUNTY FACILITIES FEES

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Title 15, "Buildings and Construction," of the Lodi Municipal Code is hereby amended by adding thereto Chapter 15.66 relating to the establishment of County Facilities Fees and shall read as follows:

CHAPTER 15.66 - COUNTY FACILITIES FEES

SECTIONS:

- 15.66.010 Purpose, Findings, and Declaration of Intent
- 15.66.020 Collection of Capital Facility Fee
- 15.66.030 Authority for Adoption
- 15.66.040 Definitions
- 15.66.050 Conditions for Collection
- 15.66.060 Conditions for Reimbursement
- 15.66.070 Fee Payment
- 15.66.080 County Facilities Fee Accounts
- 15.66.090 Natural Disaster Fee Exemption
- 15.66.100 County Facilities Fee Program
- 15.66.110 Ordinance; Public Hearing
- 15.66.120 Construction
- 15.66.130 Severability Clause
- 15.66.140 Fee Adjustments or Waiver
- 15.66.150 Environmental Exemption
- 15.66.160 Sunset Provision

15.66.010 PURPOSE, FINDINGS, AND DECLARATION OF INTENT

- A. In order to implement the goals and objectives of the General Plan and to mitigate impacts caused by new development within the County of San Joaquin, a County Facilities Fee Program is necessary. The program is needed to finance region-serving Capital Facilities located throughout the County that are used by the residents and businesses within the City and to assure that new development pays its proportional share for these improvements.
- B. Fee revenue collected pursuant to this ordinance shall be remitted to the County of San Joaquin who shall be responsible for administering the fee funds and constructing the Capital Facilities.
- C. Title 7, Division 1, Chapter 5, Section 66000 et seq. of the California Government Code provides that Capital Facilities Fees may be enacted and imposed on development projects. The City Council finds and determines that:

- (1) New development projects cause the need for construction, expansion, or improvement of Capital Facilities within the County of San Joaquin.
- (2) Funds for construction, expansion, or improvement of Capital Facilities are not available to accommodate demand for service caused by development projects; which results in inadequate Capital Facilities within San Joaquin County.

D. The City Council finds that the health, safety, peace, morals, convenience, comfort, prosperity, and general welfare of the residents and businesses within the City will be promoted by the adoption of County Facilities Fees for construction, expansion, or improvement of region-serving Capital Facilities.

#### 15.66.020 COLLECTION OF CAPITAL FACILITY FEE

The Capital Facility Fee enacted pursuant to this Chapter are to be collected by the City before the issuance of building permits, or at approval of any discretionary permit if no building permit is required.

#### 15.66.030 AUTHORITY FOR ADOPTION

This Chapter is adopted under the authority of Title 7, Division 1, Chapter 5 of the California Government Code Sections 66000 et seq.

#### 15.66.040 DEFINITIONS

Words when used in this Chapter, and in resolutions adopted thereto, shall have the following meanings:

- A. "Board of Supervisors" means the Board of Supervisors of the County of San Joaquin.
- B. "Capital Facility" and "Capital Facilities" includes region-serving public improvements and community amenities normally provided by the County of San Joaquin.
- C. "City" means the City of Lodi, a general law city organized and existing under the Constitution and laws of the State of California.
- D. "City Council" means the City Council of the City of Lodi.
- E. "County" means the County of San Joaquin, a political subdivision of the State of California.
- F. "Development Project" means any project undertaken for the purpose of development. "Development Project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.
- G. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of Capital Facilities related to the development project.

- H. "Nexus Report" means the San Joaquin County Facility Fee Nexus Report originally prepared in September 2003, as may be amended from time-to-time.

15.66.050 CONDITIONS FOR COLLECTION

- A. In establishing and imposing a fee as a condition of approval of a development project, the following shall be done:
- (1) Identify the purpose of the fee;
  - (2) Identify the use to which the fee is to be put;
  - (3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed; and,
  - (4) Determine that there is a reasonable relationship between the need for the Capital Facility and the impacts caused by the type of development project on which the fee is imposed.
- B. The City, before establishing a Capital Facility Fee as a condition of approval of development projects, shall determine that there is a reasonable relationship between the amount of the fee and the cost of the Capital Facility or portion of the Capital Facility attributable to the development on which the fee is imposed as documented in the Nexus Report.
- C. Upon receipt of funds from the City, derived through this Chapter, the County shall deposit, invest, account for, and expend the funds pursuant to California Government Code Section 66006.

15.66.060 CONDITIONS FOR REIMBURSEMENT

- A. The County shall report to the City Council once each fiscal year concerning the fees and accounts, including any portions of fees remaining unexpended or uncommitted five (5) or more years after deposit. The Board of Supervisors shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to identify the purpose to which the fee is put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.
- B. A refund of unexpended or uncommitted fee revenue for which a need cannot be demonstrated, along with accrued interest may be made to the current owner(s) of the development project(s) on a prorated basis. The County may refund unexpended and uncommitted fee revenue that have been found by the Board of Supervisors to be no longer needed, by direct payment or by off-setting other obligations owed to the County by the current owner(s) of the development projects(s).

- C. If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this Chapter exceed the amount to be refunded, County, after a public hearing, for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fee is collected subject to this Chapter that serves the project on which the fee was originally imposed.

15.66.070 FEE PAYMENT

- A. Prior to the issuance of any building permit, the applicant shall pay to the City the fee as established by resolution of the City Council.
- B. The fee shall be determined by the fee schedule in effect on the date the vesting tentative map or vesting parcel map is approved, or the date a permit is issued.
- C. If a development has multiple types of uses, the fee will be collected proportionately on each use.
- D. When application is made for a new building permit following the expiration of a previously issued building permit for which the fee was paid, the fee payment shall not be required, unless the fee schedule has been amended during the interim, in this event, the appropriate increase or decrease shall be imposed.
- E. In the event that subsequent development occurs with respect to property for which the fee has been paid, an additional fee shall be required only for additional square footage of development that was not included in computing the prior fee.
- F. When a fee is paid for a development project and that project is subsequently reduced so that it is entitled to a lower fee, the County shall issue a partial refund of the fee.
- G. When a fee is paid for a development project and the project is subsequently abandoned without any further action beyond the obtaining of a building permit the payor shall be entitled to a refund of the fee paid, less the administrative portion of the fee.
- H. If a development is converted to a more intense use, a fee shall be required which shall be the difference between the current fee for the original use and the current fee for the more intense use.

15.66.080 COUNTY FACILITIES FEE ACCOUNTS

- A. The City shall hold fee revenues collected under this ordinance in a separate County Facility Fee account. Fee revenues accruing in this account shall be remitted quarterly to the County of San Joaquin to be expended for the purpose for which they were collected.

- B. The County shall account for all fee revenues, including interest accrued, and allocate them for the purposes for which the original fee was imposed.

#### 15.66.090 NATURAL DISASTER FEE EXEMPTION

No fee may be applied by a local agency to the reconstruction of any residential, commercial, or industrial development project that is damaged or destroyed as a result of a natural disaster as declared by the Governor.

#### 15.66.100 COUNTY FACILITIES FEE PROGRAM

- A. The County has adopted a County Facilities Fee Nexus Report that indicates the approximate location, size, time of availability, and estimates of costs for region-serving *Capital Facilities* or improvements to be financed with County Facilities Fee funds.
- B. The County shall annually submit a report to the City Council regarding the proposed uses of County Facilities Fee funding.
- C. The County Facilities Fee schedule established by Resolution of the City Council shall annually be automatically adjusted by an amount determined by the increase in the Engineering Construction Cost Index for the previous year, as published by the Engineering News Record. *The County shall provide the City with notice and documentation of the fee adjustments required, if any.*
- D. The County Facilities Fee schedule adopted by the City Council shall be annually reviewed by the City for consistency with the County Facilities Fee Nexus Report, as it may be updated from time-to-time.

#### 15.66.110 ORDINANCE; PUBLIC HEARING

The adoption of County Facilities Fees is a legislative act and shall be enacted by resolution after a *noticed public hearing before the City Council.*

#### 15.66.120 CONSTRUCTION

The Chapter and any subsequent amendment to the County Facilities Fee Program *shall be read together.* With respect to any County Facilities Fee enacted by resolution under this Chapter, any provision of such a County Facilities Fee which is in conflict with this Chapter shall be void.

#### 15.66.130 SEVERABILITY CLAUSE

Should any provision of this Chapter or a subsequent amendment to the County Facilities Fee Program be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Chapter and the County Facilities Fee Program shall remain in full force and effect.

15.66.140 FEE ADJUSTMENTS OR WAIVER

A developer of any project subject to the fee described in this Chapter may apply to the City Council for reduction or adjustment to that fee, or a waiver of that fee, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed. The application shall be made in writing and filed with the City Clerk (1) 10 days prior to the public hearing on the development permit application for the project, or (2) if no development permit is required, at the time of the filing of the request for a building permit. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment. The City Council shall consider the application at a public hearing held within sixty (60) days after the filing of the fee adjustment application. The City shall prepare a staff report and recommendation for City Council consideration. The decision of the City Council shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment, or reduction of the fee.

15.66.150 ENVIRONMENTAL EXEMPTION

Pursuant to Title 14 California Code of Regulations sections 15061 and 15273(4), this ordinance is exempt from the California Environmental Quality Act.

15.66.160 SUNSET PROVISION

This chapter shall no longer be effective or apply and shall be repealed in its entirety upon termination of the "Agreement for Property Tax Allocation Upon Annexation (A-05-\_\_\_\*)" between the City of Lodi and the County of San Joaquin, unless otherwise extended by resolution of the Lodi City Council.


*\*To be completed by staff upon the County's adoption of the agreement.*

SECTION 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 6<sup>th</sup> day of April, 2005.

  
JOHN BECKMAN  
Mayor

Attest:

  
SUSAN J. BLACKSTON  
City Clerk

State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1758 was introduced at a regular meeting of the City Council of the City of Lodi held March 16, 2005, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 6, 2005, by the following vote:

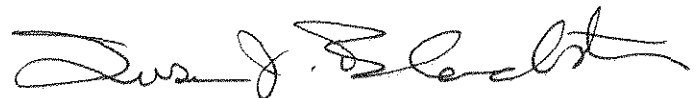
AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, and  
Mayor Beckman

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1758 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.



SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:



D. STEPHEN SCHWABAUER  
City Attorney